

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

██████████,

Appellant.

Docket No. 2013-14624 HHS

Case No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 C.F.R. § 431.200 *et seq.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. ██████████, Appellant's ██████████ appeared and testified on Appellant's behalf. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████ Adult Services Worker (ASW), from the Wayne County DHS-District 45 Office appeared as a witness for the Department. ██████████ Adult Services Supervisor was also present but did not testify.

ISSUE

Did the Department properly terminate Appellant's Home Help Services (HHS)?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Appellant is an ██████ year-old Medicaid beneficiary.
2. Appellant has been diagnosed by a physician with Crohn's disease and colitis. (Exhibit A, pp. 12, 17, 8).
3. On ██████████, ██████████, ASW, did a home visit with the Appellant and her ██████████ and did a face-to-face assessment to determine Appellant's continued eligibility for HHS. ██████████ determined that Appellant did not meet the criteria for HHS as she did not need assistance with any of her ADLs. (Exhibit A, pp. 7, 10, 14, 16 and testimony).
4. On ██████████, the Department issued an Advance Action Notice to Appellant informing her that her HHS would be terminated effective ██████████. (Exhibit A, pp. 2, 6-7 and testimony).
5. On ██████████, the MAHS received Appellant's Request for Hearing. (Exhibit A, pp. 4-5).

CONCLUSIONS OF LAW

The Medical Assistance Program is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

Home Help Services (HHS) are provided to enable functionally limited individuals to live independently and receive care in the least restrictive, preferred settings. These activities must be certified by a physician and may be provided by individuals or by private or public agencies.

Adult Services Manual 101 (11-1-2011) (hereinafter "ASM 101") and Adult Services Manual 120 (11-1-2011) (hereinafter "ASM 120") address the issues of what services are included in Home Help Services and how such services are assessed:

Home Help Payment Services

Home Help Services are non-specialized personal care service activities provided under the independent living services program to persons who meet eligibility requirements.

Home Help Services are provided to enable individuals with functional limitation(s), resulting from a medical or physical disability or cognitive impairment to live independently and receive care in the least restrictive, preferred settings.

Home Help Services are defined as those tasks which the department is paying for through Title XIX (Medicaid) funds. These services are furnished to individuals who are **not** currently residing in a hospital, nursing facility, licensed foster care home/home for the aged, Intermediate Care Facility (ICF) for persons with developmental disabilities or institution for mental illness.

These activities must be certified by a Medicaid enrolled medical professional and may be provided by individuals or by private or public agencies. **The medical professional does not prescribe or authorize personal care services.** Needed services are determined by the comprehensive assessment conducted by the adult services specialist.

Personal care services which are eligible for Title XIX funding are limited to:

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Activities of Daily Living (ADL)

- Eating.
- Toileting.
- Bathing.
- Grooming.
- Dressing.
- Transferring.
- Mobility.

Instrumental Activities of Daily Living (IADL)

- Taking medication.
- Meal preparation/cleanup.
- Shopping for food and other necessities of daily living.
- Laundry.
- Housework.

An individual must be assessed with at least One Activity of Daily Living (ADL) in order to be eligible to receive Home Help Services.

Note: If the assessment determines a need for an ADL at a level 3 or greater but these services are not paid for by the department, the individual would be eligible to receive IADL services.

Example: ██████████ is assessed at a level 4 for bathing however she refuses to receive assistance. Ms. Smith would be eligible to receive assistance with IADL's if the assessment determines a need at a level 3 or greater.

(ASM 101, pages 1-2 of 4)

Services not Covered by Home Help Services

Home help services must **not** be approved for the following:

- Supervising, monitoring, reminding, guiding of encouraging (functional assessment rank 2);

(ASM 101, page 3 of 4)

Functional Assessment

The **Functional Assessment** module of the **ASCAP** comprehensive assessment is the basis for service planning and for the HHS payment.

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Conduct a functional assessment to determine the client's ability to perform the following activities:

Activities of Daily Living (ADL)

- Eating
- Toileting
- Bathing
- Grooming
- Dressing
- Transferring
- Mobility

Instrumental Activities of Daily Living (IADL)

- Taking Medication
- Meal Preparation and Cleanup
- Shopping
- Laundry
- Light Housework

Functional Scale

ADL's and IADL's are assessed according to the following five-point scale:

1. **Independent:** Performs the activity safely with no human assistance.
2. **Verbal Assistance:** Performs the activity with verbal assistance such as reminding, guiding or encouraging.
3. **Some Human Assistance:** Performs the activity with some direct physical assistance and/or assistive technology.
4. **Much Human Assistance:** Performs the activity with a great deal of human assistance and/or assistive technology.
5. **Dependent:** Does not perform the activity even with human assistance and/or assistive technology.

Home Help Payments may only be authorized for needs assessed at the 3 level or greater.

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Note: If the assessment determines a need for an ADL at a level 3 or greater but these services are not paid for by the department, the individual would be eligible to receive IADL services.

Example: Ms. Smith is assessed at a level 4 for bathing however she refuses to receive assistance. Ms. Smith would be eligible to receive assistance with IADL's if the assessment determines a need at a level 3 or greater.

See ASM 121, Functional Assessment Definitions and Ranks for a description of the rankings for activities of daily living and instrumental activities of daily living.

(ASM 120, pages 2-3 of 6)

Here, ASW ██████████ testified that she determined the Appellant did not have a need for assistance with any of her ADLs identified above to qualify for HHS. The ASW stated she conducted an in-home assessment with the Appellant and her ██████████ on ██████████. The ASW went over each task and the Appellant's ability to complete each task, rating her abilities on a scale of one to five. The ASW stated that the Appellant needed to score at least a three on one of her ADLs in order to qualify for HHS. She referenced Exhibit A pages 23-26 for the policy on functional abilities ratings. ASW ██████████ concluded that Appellant did not need any assistance with her ADLs and she sent out an Advance Negative Action Notice indicating that her HHS would be terminated as the comprehensive in-home evaluation conducted did not identify a need for assistance with an Activity of Daily Living. (See Exhibit A, p. 7).

During the hearing, Appellant's ██████████ indicated she requested a hearing because she felt her ██████████ was treated unfairly. Appellant's ██████████ claimed an in-home assessment was scheduled for ██████████, but no one showed up and she did not receive any courtesy call to advise her that the visit would be cancelled. Appellant's ██████████ referenced page seven of Exhibit A, but no such reference is made there to a visit scheduled for ██████████.

Appellant's ██████████ also indicated that her ██████████ is unable to comprehend things. She said that she tried to tell the ASW this, but she shut her down and wouldn't let her talk. Appellant's ██████████ indicated her ██████████ can't do anything for herself or make any decisions for ██████████. Appellant's ██████████ testimony is contradicted by the notes of the ASW provided relating to the in-home face-to-face assessment. Appellant's ██████████ is quoted at least twice in the notes regarding the Appellant's condition and regarding her ability to cook. Appellant's ██████████ also claimed that she sent in paperwork from the doctor to show that her ██████████ was not capable of making decisions for herself, but

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no such documentation was contained within Exhibit A, and the Appellant's [REDACTED] did not submit any such documentation during the hearing.

The preponderance of reliable evidence in this case demonstrates that the Appellant does not need assistance with any of her ADLs. According to the policy quoted above, an individual is only eligible to receive HHS if he or she has a need for assistance with an ADL at a level 3 or greater. See ASM 101, page 2 of 4; ASM 120, page 3 of 6. Appellant has no such need and is therefore ineligible to receive any type of HHS. Accordingly, the Department's decision must be sustained.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly terminated Appellant's HHS.

IT IS THEREFORE ORDERED THAT:

The Department's decision is **AFFIRMED**.

/s/ _____
William D. Bond
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: January 24, 2013

***** NOTICE *****

The Michigan Administrative Hearing System may order a rehearing on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. The Michigan Administrative Hearing System will not order a rehearing on the Department's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original request. The Appellant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt of the rehearing decision.